

AS

Notice of Allowability**Application No.**

09/662,507

Examiner

Chester T. Barry

Applicant(s)

SMITH, RICHARD L.

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 2/5/04.
2. The allowed claim(s) is/are 1-4 and 9-15.
3. The drawings filed on 05 February 2004 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____

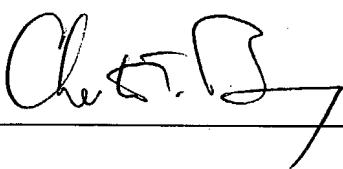
Chester T. Barry
571-272-1152 direct
Art Unit: 1724

The following is an examiner's statement of reasons for allowance:

The English abstract of JP 404094799A fails to state whether the hydrogen-oxidizing bacteria (HOB) derive their carbon from organic or inorganic sources. Accordingly, the examiner does not have substantial evidence that the HOB disclosed in the Japanese document are autotrophic as required by the claims. It is also unclear from the reference whether the "water contg. oxidized nitrogen" contains nitrates, nitrites, or both. What is reasonably clear, though, is that the bacteria are denitrifying for they appear to convert, i.e., reduce, whatever form of oxidized nitrogen is present. Even if the only form of oxidized nitrogen present were nitrite, the bacteria capable of reducing nitrite would still qualify as denitrifying bacteria. It is for want of the evidence that nitrate is in the raw drinking water that the limitation "nitrate-contaminated water" is not met by this art.

The previously applied art is withdrawn for at least one of the reasons given by applicant's attorney in the latest response.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



571-272-1152

CHESTERT. BARRY
PRIMARY EXAMINER

3/6/04